

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angela Tizon	Team: Team # 7	CCRB Case #: 200308358	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/18/2003 5:33 PM	Location of Incident: C/O 34th St 7th Ave	Precinct: 14	18 Mo. SOL 4/18/2005	EO SOL 4/18/2005	
Date/Time CV Reported Sat, 10/18/2003 5:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/22/2003 2:42 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Charles Carlstrom	24275	918742	MTS PCT
2. POF Alison Esposito	26150	920258	MTS PCT
3. POF Barbara Keefe	08928	921456	MTS PCT
4. POM Thomas Schick	19925	916653	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Philip Fressle	00590	890042	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Alison Esposito	Discourtesy: PO Alison Esposito spoke obscenely and rudely to § 87(2)(b)	
B.POF Alison Esposito	Force: PO Alison Esposito used physical force against § 87(2)(b)	
C.POF Barbara Keefe	Force: PO Barbara Keefe used physical force against § 87(2)(b)	
D.POF Barbara Keefe	Discourtesy: PO Barbara Keefe spoke obscenely and rudely to § 87(2)(b)	
E.POM Thomas Schick	Force: PO Thomas Schick used physical force against § 87(2)(b)	
F.POM Charles Carlstrom	Discourtesy: PO Charles Carlstrom spoke obscenely and rudely to § 87(2)(b) and § 87(2)(b)	

### Synopsis

On October 18, 2003 at approximately 5:30 pm, § 87(2)(b) and § 87(2)(b) were arrested after having been caught going through a purse set up as part of a decoy operation by officers of the 14<sup>th</sup> Precinct to catch shop-lifters. The three women had an altercation with officers Charles Carlstrom, Alison Esposito, Barbara Keefe, Thomas Schick and Sgt Philip Fressle. § 87(2)(b) and § 87(2)(b) allege that during the interaction with the officers, PO Esposito spoke discourteously to them and twisted § 87(2)(b) arm behind her back. They also allege that PO Keefe spoke discourteously to them and wrapped her arm around § 87(2)(b) neck and pulled her back. Both also allege that PO Carlstrom spoke discourteously to them. § 87(2)(b) alleges that PO Schick threw her to the ground for no reason and caused a scrape on her hand.

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) was interviewed over the phone on November 3, 2003 and then in person at 100 Center Street on March 16<sup>th</sup>. § 87(2)(b) was interviewed at 100 Center Street on November 12<sup>th</sup>, and § 87(2)(b) was interviewed at 100 Center Street on March 16<sup>th</sup>. All three women were shown photo arrays on March 16<sup>th</sup>.

On October 18, 2003 at approximately 5:30 pm, § 87(2)(b) was shopping inside H & M clothing store on the corner of 34<sup>th</sup> Street and 7<sup>th</sup> Avenue in Manhattan with § 87(2)(b) daughter § 87(2)(b) and § 87(2)(b). § 87(2)(b) walked out of the store, and § 87(2)(b) told § 87(2)(b) and § 87(2)(b) that there was an open pocket book on a table by a rack of clothes. § 87(2)(b) picked up the pocket book and looked inside. She saw that there was fake money inside, told § 87(2)(b) this, and then proceeded to leave the store.

A female officer, identified by the investigation as PO Keefe, grabbed § 87(2)(b) arm to stop her, while another officer questioned her as to why she had gone through the purse. § 87(2)(b) protested that she had not taken anything from the bag, and § 87(2)(b) who was standing outside began yelling at the officers that they did not have a right to hold § 87(2)(b). § 87(2)(b) then began to walk away from the officers. § 87(2)(b) claims that § 87(2)(b) followed, while § 87(2)(b) claims that she did not move). At this point everything went into an “uproar,” and a crowd gathered. A second female officer, identified by the investigation as PO Esposito, called § 87(2)(b) a “bitch” and twisted her arm behind her back which hurt § 87(2)(b). § 87(2)(b) stated that PO Keefe then wrapped her arm around § 87(2)(b) neck and said, “you’re going down bitch.” § 87(2)(b) however, alleges that this statement was made earlier when § 87(2)(b) told the officers that she hadn’t taken anything from the purse, and one of the officers (she didn’t recall which) said, “don’t worry about it bitch, you’re going down.” § 87(2)(b) also alleges that at this point a male officer, identified by the investigation as PO Carlstrom, stated to § 87(2)(b) “shut up idiot,” and “shut the fuck up.” § 87(2)(b) stated that she was unaware that they were officers until the uniformed officers arrived to the location.

At this point both § 87(2)(b) and § 87(2)(b) turned around and saw § 87(2)(b) on the ground. § 87(2)(b) states that PO Carlstrom offered her medical assistance, which she declined. § 87(2)(b) states that she walked up to § 87(2)(b) and the next thing she knew she was grabbed from behind and thrown onto the ground and handcuffed by an officer, identified by the investigation as PO Schick. PO Schick then

pulled her hand from underneath her stomach and caused her to scrape her hand. She did not request medical attention because her scrape cleared up. She does not know why she was arrested because she never said or did anything to the officers.

§ 87(2)(b) and § 87(2)(b) allege that at the precinct PO Carlstrom told them, “you don’t think what you did was wrong?” They then responded, “no, why don’t you explain it to us?” and PO Carlstrom said, “I don’t have to, idiots, we have it all on tape.”

§ 87(2)(b) positively identified PO Keefe and PO Carlstrom from the photo array and § 87(2)(b) positively identified PO Keefe, PO Esposito and PO Carlstrom. § 87(2)(b) did not identify any of the officers from the photo array.

### **Results of Investigation**

#### **Civilian Interviews**

§ 87(2)(g) § 87(2)(b) was identified by IAB as the 911 caller who reported the incident. He was contacted four times by the investigation, and on the fourth stated that he did not have time to participate in the investigation, but would call the investigator back. He did not call back and failed to cooperate with the investigation. Witnesses § 87(2)(b) and § 87(2)(b) were contacted by phone and were sent letters, but failed to contact the investigation. § 87(2)(g)

#### **Officer Interviews**

*PO Keefe of the 14<sup>th</sup> Precinct was interviewed on March 17, 2003. PO Carlstrom was interviewed on March 19<sup>th</sup>, PO Schick on March 25<sup>th</sup>, Sgt. Fressle on March 26<sup>th</sup>, and PO Esposito on May 6<sup>th</sup>.* § 87(2)(g)

PO Schick did not record anything in his memobook. PO Keefe, PO Esposito and Sgt. Fressle noted in their memobooks that three females were arrested at the location at the time of incident. PO Carlstrom recorded a detailed description of the incident in his memobook, stating that both § 87(2)(b) and § 87(2)(b) resisted arrest and that § 87(2)(b) attempted to strike an officer on the scene.

On October 18, 2003 at approximately 5:30 pm, PO Esposito, PO Keefe, PO Carlstrom, PO Schick and Sgt. Fressle were conducting a decoy operation inside of H&M clothing store on the corner of 34<sup>th</sup> Street and 7<sup>th</sup> Avenue in Manhattan. The purpose of the decoy was to catch shop-lifters. PO Esposito acted as a decoy shopper and was positioned next to a table with an open pocket-book placed on it. PO Keefe and PO Carlstrom were positioned around the store and acted as surveillance. PO Schick and Sgt. Fressle were positioned outside, near the store.

Inside the store the officers observed § 87(2)(b) and § 87(2)(b) approach the purse and remove the wallet while PO Esposito had her back turned. PO Keefe states that § 87(2)(b) and § 87(2)(b) upon thumbing through the wallet and realizing there was fake money inside, dropped the wallet by the door and walked out. PO Carlstrom states that they put the wallet back after realizing its contents and attempted to leave the store. At this point PO Schick and Sgt. Fressle received a radio transmission describing what was happening inside the store and they walked to the entrance.

As § 87(2)(b) and § 87(2)(b) walked out of the store, PO Esposito, PO Keefe and PO Carlstrom approached them, identified themselves and asked them to stop. PO Esposito and PO Keefe were the first to approach them, and both state that § 87(2)(b) and § 87(2)(b) initially did not comply with their orders to stop and continued to walk. § 87(2)(b) and § 87(2)(b) kept saying, “don’t touch me, we didn’t take anything, we didn’t leave the store with it.” PO Esposito and PO Keefe stopped them by grabbing their arms and escorting them to the side of the store. PO Carlstrom alleges that the women continued to push the officers and curse at them. A crowd gathered at this point and people were yelling

obscenities such as, “fuck the cops.” PO Schick and Sgt. Fressle attempted to calm the crowd, and Sgt. Fressle called for back-up which arrived shortly after.

PO Keefe then attempted to handcuff § 87(2)(b). She handcuffed one of § 87(2)(b) hands, and as she went to handcuff the other, a group of females that § 87(2)(b) and § 87(2)(b) were with came up to them and began yelling. Sgt. Fressle tried to calm them down and explain what had happened since some of them had not been inside of the store and may have been confused by the arrest. § 87(2)(b) turned her body to face the group and as a result her arm went in front of her body. PO Esposito grabbed her loose arm to handcuff it, and as she was doing this § 87(2)(b) swung her fist at the back of PO Esposito’s head in attempt to strike her. PO Schick intervened by grabbing her arm and tackling her to the ground before she could strike PO Esposito. § 87(2)(b) was already handcuffed at this point by PO Carlstrom. All three females were handcuffed within approximately 45 seconds.

The officers denied all allegations of excessive force and discourtesy. Sgt. Fressle stated that he did not hear PO Esposito or PO Keefe curse, and strongly stated that he has never witnessed his officers curse and would be the first to report them if they did. Both PO Schick and Sgt. Fressle stated that they were in a position to see all of PO Keefe’s and PO Esposito’s actions during the arrest, especially Sgt. Fressle who was standing right in front of them. Neither of them witnessed any excessive force and definitely did not witness PO Keefe wrap her arm around § 87(2)(b) neck. PO Schick stated that although he did see all of their actions, due to the loud crowd and his positioning 5-6 feet from PO Esposito and PO Keefe, he was not in a position to hear what they were saying. All officers with the exception of PO Esposito, witnessed § 87(2)(b) attempt to strike PO Esposito. PO Carlstrom stated that he never said “idiots we have it all on tape,” and stated that he would not have said that considering they did not have it on tape.

### **Police Documents**

The Sprint report indicates that a person named § 87(2)(b) called 911 to report that an officer grabbed a female by her neck, choked her, and smashed her into the ground. The Command Log for the 14<sup>th</sup> Precinct notes that PO Carlstrom brought in § 87(2)(b) and § 87(2)(b). The arrest report for § 87(2)(b) and § 87(2)(b) states that they removed contents from the decoy purse and resisted arrest. The arrest report for § 87(2)(b) states that she prevented an officer from making a lawful arrest by the use of physical force, and she engaged in “violent and tumultuous behavior.” § 87(2)(b) § 87(2)(c)

§ 87(2)(b) § 87(2)(c)

### **Complainant’s Criminal Conviction History**

§ 87(2)(b) § 87(2)(c)

### **Subject Officer’s CCRB History**

PO Carlstrom, PO Esposito, PO Keefe, PO Schick and Sgt. Fressle have no prior substantiated CCRB cases.

### **Conclusions and Recommendations**

#### **Undisputed Facts**

It is clear that PO Esposito, PO Keefe and PO Carlstrom were conducting a decoy operation inside the H&M clothing store on the corner of 34<sup>th</sup> Street and 7<sup>th</sup> Ave, and that PO Schick and Sgt Fressle, who were part of the operation, were stationed outside of the store. It is clear that § 87(2)(b) and § 87(2)(b) approached the purse, looked through its contents and attempted to leave the store. It is clear that PO Esposito and PO Keefe stopped § 87(2)(b) and § 87(2)(b) on their way out of the store and that they attempted to handcuff § 87(2)(b) who at one point moved her arm during the arrest. It is also clear that § 87(2)(b) was handcuffed and argued with the officers about arresting her and § 87(2)(b). It is clear that § 87(2)(b) was tackled to the ground by PO Schick and handcuffed.

## Disputed Facts

It is in dispute whether PO Esposito, PO Keefe and PO Carlstrom spoke discourteously to § 87(2)(b) during her arrest or whether PO Esposito used excessive force in handcuffing her by twisting her arm uncomfortably behind her back. It is also in dispute whether PO Keefe used excessive force by wrapping her arm around § 87(2)(b) neck and pulling her back. It is in dispute whether PO Schick used excessive force by tackling § 87(2)(b) to the ground and handcuffing her and whether PO Carlstrom spoke discourteously to § 87(2)(b) and § 87(2)(b) at the precinct.

## Determination of Fact

§ 87(2)(g)  
[Redacted text block]

## Credibility Assessment

§ 87(2)(g)  
[Redacted text block]

§ 87(2)(g)  
[Redacted text block]

§ 87(2)(g)  
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§ 87(2)(g)  
[Redacted text block]

§ 87(2)(g)  
[REDACTED]

**Allegation A: Discourtesy- PO Alison Esposito spoke obscenely and rudely to § 87(2)(b)**

§ 87(2)(g)  
[REDACTED]

**Allegation B: Force- PO Alison Esposito used physical force against § 87(2)(b)**

§ 87(2)(g) PO Esposito assisted PO Keefe by grabbing § 87(2)(b) free arm and putting it in a handcuff. According to Patrol Guide Procedure No. 203-11, “Only that amount of force necessary to overcome resistance will be used to effect an arrest.” § 87(2)(g)  
[REDACTED]

**Allegation C: Force- PO Barbara Keefe used physical force against § 87(2)(b)**

**Allegation D: Discourtesy- PO Barbara Keefe spoke obscenely and rudely to § 87(2)(b)**

The officers stated that they did not witness PO Keefe wrap her arm around § 87(2)(b) neck and did not hear her speak rudely to § 87(2)(b) § 87(2)(g)  
[REDACTED]

**Allegation E: Force- PO Thomas Schick used physical force against § 87(2)(b)**

As noted before, Patrol Guide Procedure No. 203-11 states that, “only the amount of force necessary to overcome resistance will be used to effect an arrest.” § 87(2)(g)  
[REDACTED]

**Allegation F: Discourtesy- PO Charles Carlstrom spoke obscenely and rudely to § 87(2)(b) and § 87(2)(b) at the 14<sup>th</sup> Precinct**

§ 87(2)(g)  
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: